## 4. The Cochin Limitation Act (Amendment) Bill

**Mr. M. Sivarama Menon** *(Advocate-General)*: Sir, I rise to move that the Cochin Limitation Act (Amendment) Bill be read in Council. Section 20 of the Cochin Limitation Act was based upon section 21 of the Indian Limitation Act and that section was subjected to interpretation by the Privy Council and in the case reported in A. I. R. 1940 Privy Council 63 it was held that the use of the words "as such" made it imperative that the amount paid as interest must have been paid as such limitation. It was considered that this interpretation works, hardship and therefore section 21 of the Indian Limitation Act was amended by incorporating the same provisions that we are now going to incorporate into our Limitation Act. The section as amended will read thus:— "Where payment on account of a debt or of interest on a legacy is made before the expiration of the prescribed period by the person liable to pay the debt or legacy, or by his duly authorised agent, a fresh period of limitation shall be computed from the time when the payment was made". The words 'as such' has been omitted and there is no necessity now to particularly specify that the amount is paid towards interest as such. The section as it stands now is to the following effect:—"Where interest on a debt or legacy is, before the expiration of the prescribed period, paid as such by the person liable to pay the debt or legacy, or by his agent duly authorised in this behalf, or where part of the principal of a debt is, before the expiration of the prescribed period, paid by the debtor or by his agent duly authorised in this behalf, a fresh period of limitation shall be computed from the time when the payment was made.". There is, according to this Bill, no necessity, for payment of interest as such to save the period of limitation. This is no controversial measure and I hope the House will support this Bill.

**Dr. T. Verghese** *(Chief Medical Officer)*: I second it.

*Motion put and carried*

**Secretary to the Council:** The title of the Bill is "The Cochin Limitation Act (Amendment) Bill."

**Mr. M. Sivarama Menon** *(Advocate-General)*: I request that the Chair may be pleased to suspend Standing Order No. 32 and allow that the Bill may be taken into consideration.

**Deputy President:** The Standing Order is suspended.

**Mr. M. Sivarama Menon** *(Advocate-General)*: Sir, I move that the Bill may be taken into consideration.

**Dr. T. Verghese** *(Chief Medical Officer)*: I second it.

*Motion put and carried*

*Clause 2 put and carried*

*Clause 1 put and carried*

*The title and preamble put and carried*

**Mr. M. Sivarama Menon** *(Advocate-General)*: Sir, I move that the Bill may be taken up and finally passed tomorrow.

**Dr. T. Verghese** *(Chief Medical Officer)*: I second it.

*Motion put and carried*

## 5. The Cochin sale of Goods Act (Amendment) Bill

**Mr. M. Sivarama Menon** *(Advocate-General)*: Sir, I beg to move that the Cochin Sale of Goods Act (Amendment) Bill be read in Council. The purpose of this amendment is set out in detail in the objects and reasons. If the customs duty is increased or decreased after the making of a contract then such increase or decrease as the case may be will also be taken into account in finally settling the account between the contracting parties. This will only apply if there is no contract to the contrary. Take for instance a case. Suppose at the time of a particular contract the customs duty payable on an article is Rs. 20 and subsequently before the performance of the contract it was raised to Rs. 50 then this difference of Rs. 30 also should be taken into account. That is the scope of the amendment. The amendment reads thus:—'In the event of any duty of customs or excise on any goods being imposed, increased, decreased or remitted after the making of any contract for the sale of such goods without stipulation as to the payment of duty where duty was not chargeable at the time of the making of the contract, or for the sale of such goods duty paid where duty was chargeable at that time—(a) if such imposition or increase so takes effect that the duty or increased duty as the case may be or any part therefore is paid,

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## APPENDIX II

## THE COCHIN LIMITATION ACT (AMENDMENT) BILL

*Preamble.*—Whereas it is expedient further to amend the Cochin Limitation Act, XII of 1112, for the purpose hereinafter appearing;

It is hereby enacted as follows.—

1. *Short title and commencement.*—This Act may be called the Cochin Limitation (Amendment) Act of 1117, and shall come into force at once.

2. *Amendment of section 21.*—In section 21 of the Cochin Limitation Act, XII of 1112, for the substantive part of sub-section (1) the following shall be substituted, namely.—

*Effect of payment on account of debt or of interest on legacy.*—"(1) Where payment on account of a debt or of interest on a legacy is made before the expiration of the prescribed period by the person liable to pay the debt or legacy, or by his duly authorised agent, a fresh period of limitation shall be computed from the time when the payment was made."

### *Statement of Objects and Reasons*

Section 20 of the Indian Limitation Act, IX of 1908, has been recently amended. The amendment in British India was necessitated by the decision of the Privy Council reported in A.I.R. 1940, P.C. 63, which placed a strict interpretation on the words of the section. Endorsements of payments made by debtors towards a debt do not in all cases specify whether the payment is made towards interest as such or part of the principal. In practice debtors also do not specify at the time of making payments whether the payment is made towards interest or principal. In many cases, the payments are made towards the debt or legacy itself and the mode of appropriation is left either to the creditor or is regulated in accordance with the course of business between the parties. It was found necessary to amend section 20 of the Indian Limitation Act so as to give effect to the intention of the Legislature, *viz*,, that a payment made towards the debt will save limitation. It is necessary to bring our law into line with the British Indian Act, Hence the Bill.

## APPENDIX III

## THE COCHIN SALE OF GOODS ACT (AMENDMENT) BILL

*Preamble.*—Whereas it is expedient to amend the Cochin Sale of Goods Act, XXV of 1112, for the purposes hereinafter appearing; it is hereby enacted as follows.—

1. *Short title and commencement.*—This Act may be called the Cochin Sale of Goods (Amendment) Act, of , and shall come into force at once.

2. *Insertion of new section 64A.*—After section 64 of the Cochin Sale of Goods Act, XXV of 1112, the following section shall be inserted, namely.—

"64A. *In contracts of sale amount of increased or decreased duty to be added or deducted.*—In the event of any duty of customs or excise on any goods being imposed, increased, decreased, or remitted after the making of any contract for the sale of such goods without stipulation as to the payment of duty where duty was not chargeable at the time of the making of the contract, or for the sale of such goods duty-paid where duty was chargeable at that time.—

(*a*) if such imposition or increase so takes effect that the duty or increased duty, as the case may be, or any part thereof, is paid, the seller may add so much to the contract price as will be equivalent to the amount paid in respect of such duty or increase of duty, and he shall be entitled to be paid and to sue for and recover such addition, and

(*b*) if such decrease or remission so takes effect that the decreased duty only or no duty, as the case may be, is paid, the buyer may deduct so much from the contract price as will be equivalent to the decrease of duty or remitted duty, and he shall not be liable to pay, or be sued for or in respect of such deduction".

### *Statement of Objects and Reasons*

The Indian Sale of Goods Act has recently been amended for the purpose of permitting the addition or deduction from the contract price of an increase or decrease in the Customs or Excise duty imposed after the making of the contract. It is necessary to embody such a provision in our Sale of Goods Act. Hence the Bill.

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